

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.153/2022

Annapurna @ Anusayabai Bhimte and others V Nagpur Improvement Trust and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. V.K. Paliwal, Advocate for petitioners.

Mr. B.L. Meshram, Advocate for resp.nos.2(A) to 2(C).

Mrs. M.S. Naik Advocate for reps. No.1.

CORAM : AVINASH G GHAROTE, J.

DATE : 12-08-2022

Heard Mr Paliwal, learned Counsel for the petitioners,
 Mr. Meshram, learned Counsel for respondent nos.2(A) to 2(C) and Mrs. Naik,
 learned Counsel for respondent no.1.

2. This Petition challenges the order dated 24-08-2021, whereby the learned trial Court has rejected the application filed under Order 22 Rule 3 of the Code of Civil Procedure for bringing the names of legal heirs of the deceased Plaintiff no.6 on record, on the ground that, the applicants have not disclosed the relations with the deceased Plaintiff no. 6.

3. It is contended by the learned Counsel for the petitioners that the applicants have filed the application claiming to be the legal heirs of deceased Plaintiff no. 6 and the composite application in that regard was filed at Exh-94 for bringing the L.Rs on record, for condonation of delay and for setting aside the

abetment. While bringing the L.Rs on record what is material to state is that, the relationship of the persons/legal heirs who are sought to be brought on record, at that stage, there is no necessity to establish the relationship with the deceased plaintiff no.6.

4. Mr. Meshram, learned Counsel for respondent nos.2(A) to 2(C) vehemently opposed the petition and submits that, no plausible reason has been given either to explain the delay or to set aside the abetment and therefore the application has been rightly rejected.

5. The legal heirs of deceased plaintiff no.6 who are sought to be brought on record have claimed that the plaintiff no.6 is one of the several plaintiffs and earlier application had been filed in this regard at Exh 82 which came to be rejected on 17-06-2019 with liberty to apply afresh by giving complete details. Though the application below Exh-94 does not comply the said requirement, however, an affidavit has been placed on record (pg 33). In which it has been stated that the persons in the application at Exh-94 are the daughters of late Satyafula Janardhan Bobade and therefore the sisters of Amit Janardhan Bobade, who is claimed to have died issue less. Considering which, since the applicants in Exh-94 are the legal heirs of Plaintiff no. 6 and they are claiming themselves to be the legal heirs of original deceased Plaintiff no.6, and the lis does not end upon his demise, I do not see any reason why the lis should not be continued by bringing the L.Rs. of deceased Plaintiff no.6 on record.

6. Therefore, the impugned order is hereby quashed and set aside. The application below Exh-94 is allowed. No costs.

JUDGE

Deshmukh